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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,506	05/12/2008	Andrea Montani	33033-1081	3913
45263	7590	04/28/2011		
MITCHELL P. BROOK LUCE, FORWARD, HAMILTON & SCRIPPS LLP 600 West Broadway, Suite 2600 SAN DIEGO, CA 92101			EXAMINER MOMPER, ANNA M	
			ART UNIT 3657	PAPER NUMBER
			MAIL DATE 04/28/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/575,506

Applicant(s)

MONTANI ET AL.

Examiner

ANNA MOMPER

Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment to the claims received 4/06/2011 has been entered. Claims 1 and 6 have been added. Claims 5 and 7-8 have been canceled. Claim 9 has been added.

Response to Arguments

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ali et al. (US 2002/0039944 A1).

As per claim 1, Ali et al. discloses a tensioner for a belt of a drive of a motor vehicle, comprising:

a first (16) and a second (26) idle pulleys designed to co-operate with respective belt runs of said belt (32, 34, Fig. 1, Fig. 2);

a first arm (42) bearing said first idle pulley, said first arm being hinged about a mobile axis (40);

a second arm (44) hinged to said first arm about the mobile axis and bearing said second pulley;

elastic means (38) acting at least indirectly on said arms for tensioning said belt and a mobile element (50) distinct from said first and second arm and mobile during functioning operation, said mobile axis being substantially perpendicular to and carried by said mobile element, said mobile element changing positions in reaction to changes in tensioning action on the belt runs, said positions being determined by an equilibrium caused by said changes in tensioning action (Fig. 5, Fig. 6, the arms are mounted to the mobile element 50 which is then secured to an engine or other element, Fig. 6 shows a hole for mounting, it is noted that depending on how tight the mobile element 50 is secured, the mobile element is either stationary or able to move, if the mobile element is not stationary, the mobile element will rotate as the tensioner changes position to establish tension in the belt).

As per claim 2, Ali et al. discloses the mobile element is hinged about a fixed axis (Fig. 6, mounted through the hole).

As per claim 3, Ali et al. discloses the elastic means are carried on said mobile element (Fig. 5, the elastic element is carried on the mobile axis via the arm 42).

As per claim 4, Ali et al. discloses that said elastic means co-operate with one of said arms and with said mobile element (Fig. 5, the elastic means is supported between the arms 42 and 44, which are carried by the mobile element and the mobile axis 40).

As per claim 9, Ali et al. discloses a belt drive tensioner comprising:
first (16) and second pulleys (26 operating with a belt running over the pulleys (Fig. 1, Fig. 2) ;

a mobile element (50) including a first end portion rotatable about a fixed axis (Fig. 6, hole shown in Fig. 6) at a hinge and a second end portion opposite to the first end portion, the second end portion being rotatable about a mobile axis (40);

a first arm (42) rotatably coupled to said mobile element about the mobile axis, said first pulley being mounted on the first arm (Fig. 5);

a second arm (44) rotatably coupled to said first arm and to said mobile element about the mobile axis (40, Fig. 5), said second pulley being mounted on the second arm; and

elastic means (38) acting at least indirectly on said arms to generate a tensioning force;

said mobile element changing positions in reaction to changes in tensioning action on the belt, said positions being determined by an equilibrium caused by said changes in tensioning action (Fig. 5, Fig. 6, the arms are mounted to the mobile element 50 which is then secured to an engine or other element, Fig. 6 shows a hole for mounting, it is noted that depending on how tight the mobile element 50 is secured, the mobile element is either stationary or able to move, if the mobile element is not stationary, the mobile element will rotate as the tensioner changes position to establish tension in the belt).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ali et al.

(US 2002/0039944 A1) in view of Oliver (US 2003/0216203 A1).

As per claim 6, Ali et al. fails to explicitly disclose arrest components co-operating with the arms for limiting opening of said arms with respect to one another.

Oliver et al. discloses belt tensioner having a first arm (124) and a second arm (125) for supporting a first (126) and a second (127) idler pulley, said first arm and said second arm being biased into engagement with a belt by means of a biasing element or spring (128), and wherein each arm has an arresting element (166, 167) for cooperating with an arresting element (130, 131) of the mount (122) for the purpose of limiting the movement of the arms.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tensioner of Ali et al. to include arresting components for limiting opening of said arms with respect to one another, as taught by Oliver et al., for the purpose of limiting the motion of the arms.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNA MOMPER whose telephone number is (571)270-5788. The examiner can normally be reached on M-F 6:00-3:30 (First Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Am

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art Unit 3657